IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Crl.Rev.Pet.No. 3410 of 2007()

CMP.6717/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KATTAKADA

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REVN. PETITIONER:

A. VIJAYAN, S/O. BARAHAM, MEKKUMKARA PUTHEN VEEDU, MELARIYODU, VELIYAMCODE, MARANALLOOR VILLAGE

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.

RESPONDENTS:

STATE OF KERALA , REPRESENTED BYPUBLIC PROSECUTOR, HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20-09-2007 THE COURT ON 20/09/2007 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. NO. 3410 of 2007

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Dated: 20-09-2007

ORDER

On 20-08-2007 at about 9.20 a.m. a mini lorry bearing Reg. No. KL02 A-9657 of which the revision petitioner claims to be the registered owner was seized by the Sub Inspector of Police Maranalloor under a mahazar and forwarded to the District Collector for appropriate proceedings to be taken against the lorry which was found to contain sand at half load. The petitioner filed C.M.P. No. 6717 of 2007 before the J.F.C.M. Kattakkada presumably under Sec. 457 Cr.P.C. for interim custody of the lorry. As per order dated 10-9-2007, interim custody was granted on certain conditions.

2. According to the revision petitioner since no crime has been registered either under the Kerla Minor Minerals Concessions Act or under the Kerala Protection of River Banks and and Regulation of Removal of Sand Act, 2001, the revision petitioner filed an affidavit before the Magistrate indicating that he was prepared to comply with the conditions imposed by the Magistrate but without prejudice to his right to prefer an appeal before the higher courts/authorities. According to the revision petitioner, the learned

Magistrate rejected the affidavit.

3. The learned counsel for the revision petitioner submits that the revision petitioner is prepared to obey all the conditions imposed by the Magistrate as per the order dated 10-09-2007. But his apprehension is that by complying with conditions 3 to 5 and 7 therein, he should not be estopped from challenging the original proceedings under which the lorry was seized. I see no reason as to why the petitioner should not have the liberty to challenge the proceedings even after complying with condition Nos. 3 to 5 and 7. Hence, it is clarified that the compliance of those conditions by the petitioner cannot stand in the way of his right to challenge the original proceedings under which the lorry was seized. Consequently, the Magistrate shall receive Annexure B affidavit which was already filed by the petitioner indicating that his complying with the conditions imposed by the Magistrate shall be without prejudice to his rights.

With this clarification, this revision is disposed of.

V. RAMKUMAR,
(JUDGE)

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